

BILLY J. WILLIAMS, OSB #901366
United States Attorney
District of Oregon
ETHAN D. KNIGHT, OSB #992984
GEOFFREY A. BARROW
CRAIG J. GABRIEL, OSB #012571
Assistant United States Attorneys
ethan.knight@usdoj.gov
geoffrey.barrow@usdoj.gov
craig.gabriel@usdoj.gov
1000 SW Third Ave., Suite 600
Portland, OR 97204-2902
Telephone: (503) 727-1000
Attorneys for United States of America

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

UNITED STATES OF AMERICA

3:16-CR-00051-BR

v.

**GOVERNMENT'S NOTICE OF INTENT
TO USE EVIDENCE OF OTHER ACTS**

AMMON BUNDY, et al.,

Defendants.

The United States of America, by Billy J. Williams, United States Attorney for the District of Oregon, and through Ethan D. Knight, Geoffrey A. Barrow, and Craig J. Gabriel, Assistant United States Attorneys, hereby provides notice pursuant to Federal Rule of Evidence 404(b) and this Court's June 17, 2016, Order (ECF No. #726).

The government does not intend to offer "other crimes" evidence under Rule 404(b). Instead, the government will offer extremely limited evidence regarding the events in

Bunkerville, Nevada, in order to offer the jury a coherent and comprehensible story regarding the charged conspiracy. *See United States v. Dorsey*, 677 F.3d 944, 951 (9th Cir. 2012). Such evidence is relevant and admissible under Rule 402 because it is inextricably intertwined with the conspiracy charged in this case. *United States v. Anderson*, 741 F.3d 938, 949 (9th Cir. 2013) (“Other act” evidence that is “inextricably intertwined” with a charged offense is independently admissible and is exempt from the requirements of Rule 404(b)).

In the alternative, and pursuant to this Court’s June 17, 2016, Order, this filing serves as protective notice of the government’s intent to present the same limited evidence regarding the events in Bunkerville, Nevada, under Rule 404(b).

The evidence at trial will show that several defendants repeatedly referred to the events in Bunkerville as justification for challenging the federal government and occupying the MNWR. On multiple occasions, defendants claimed through social media and press conferences and to witnesses that the occupation of the MNWR was “another Bunkerville.” In order to give the jury context for what “Bunkerville” refers to, the government will present evidence that:

Bunkerville is located in Southern Nevada; in March and April of 2014, the Bureau of Land Management initiated an operation to execute federal court orders to impound cattle belonging to Cliven Bundy that were grazing unlawfully on federal public lands; about a week after initiating the impoundment, the BLM suspended operations after receiving information that hundreds of people had travelled to Bunkerville, Nevada, with guns, in support of Cliven Bundy and for the purpose of forcing the cessation of the impoundment; and after the BLM announced publicly that it had stopped the impoundment operations for safety reasons and that it would leave the area, hundreds of Bundy supporters, including many openly carrying firearms, converged on the

impoundment site demanding that the BLM law enforcement officers leave the site immediately and release the impounded cattle. This information is relevant to explain to the jury the meaning of the defendants' references to Bunkerville or Bundy Ranch.

The government will not seek to prove that any defendant committed a crime in Bunkerville or that they were part of the alleged conspiracy arising from Bunkerville. That will be a matter for a separate jury at a separate trial in a different district. Instead, the government will introduce limited information in order to put defendants' words and actions in context. In order to prevent a trial within a trial regarding the events in Bunkerville, the government will file a motion in limine to carefully limit the scope of evidence regarding the Bunkerville events.

Dated this 11th day of July 2016.

Respectfully submitted,

BILLY J. WILLIAMS
United States Attorney

s/ Geoffrey A. Barrow
ETHAN D. KNIGHT, OSB #992984
GEOFFREY A. BARROW
CRAIG J. GABRIEL, OSB #012571
Assistant United States Attorneys